

Florida Journal of International Law

Volume 20
Issue 4 *Seventh Annual Conference on Legal
and Policy Issues in the Americas*

Article 4

January 2008

Justice of the Peace in Peru: An Efficient Justice Service

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Guerra Cerron: Justice of the Peace in Peru: An Efficient Justice Service

**JUSTICE OF THE PEACE IN PERU: AN EFFICIENT
JUSTICE SERVICE**

*María Elena Guerra Cerrón**

“The Judges, officials and other members of the Judiciary, the Office of the Attorney General, the National Police in Peru, the local and regional Governments shall give the support to the Judges required for adequate fulfillment of the jurisdictional functions.”¹

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* Fiscal Superior Civil, Ministerio Público.

1. Law No. 28545 of June 16, 2005, art. 1° (Peru).

I. INTRODUCTION

I work in the Office of the Attorney General of Peru, which is autonomous under Peru's constitutional framework. So, it may seem odd that I chose to examine the independent institution of the Justice of the Peace in Peru. Furthermore, while I am not a member of it, I advocate an invigoration of the role of the Justice of the Peace in Peruvian society. Unfortunately, some people and lawyers in Peru's formal Judiciary System wrongly believe that the Justice of the Peace acquires its competency and power exclusively from the Judiciary Branch.

Nevertheless, the Justice of the Peace is an institution that is more concerning to the ordinary citizens rather than formal judges or lawyers. The institution involves the parties submitting their disputes to a third person, chosen by them, for resolution, without necessarily having to resort to the formal judicial process. The voluntary availment of this special jurisdiction, which respects Peru's constitutional principles as well as fundamental human rights is an option that no citizen should ignore. Therefore, it is important that any person, regardless of his or her role in society, contribute to promoting and strengthening the unique institution that is the Justice of the Peace.

However, it is only recently that many within the justice system have admitted that the administration of justice is not the sole purview of the Judiciary Branch, but also involves many other direct and indirect actors. These additional actors could be labeled sub-systems. This is the case with the Peruvian National Justice System (PNJS). The PNJS includes direct actors such as the Judicial Branch and the Office of the Attorney General and indirect actors, like lawyers, public defenders, public prosecutors, the Office of Public Defender, and the Peru National Police. According to the role they carry out, each of these actors must promote in a joint and coordinated way the strengthening of the Justice of the Peace.

In discussing the Justice of the Peace, it is vital to know its problems in order to see or propose solutions. This is necessary in order to highlight why, in my opinion, and the opinion of many others, the Justice of the Peace is a matter of the utmost importance for the Peruvian people. Following are some reasons, among others, why it is necessary for the Peruvian people to become involved with the Justice of the Peace:

- a. There is negative reaction from most citizens regarding the lack of a prompt answer to their requests for justice. Their expectations are frustrated when the legal results are not those that they expect. The common citizen does not know, does not accept, and finally, does not care that there is a legal rule that obliges a certain lawgiver, either a judge or

attorney, to form an opinion, resolve an issue and act in a certain manner in accordance with that legal rule. The right to due process which guarantees the effective jurisdictional protection for all persons without exception, whether we like it or not, serves not as an encouragement to citizens, but apparently, as an obstacle or a pretext for the commitment of facts of injustice.

b. There is concern for the different manifestations of justice taken by one's-self. People's justice, which is not the same as indigenous or community justice, frequently puts at risk the security, public tranquility, and peaceful coexistence of all citizens. These actions of "justice taken by one's-self" can be compared as equivalent to delinquency actions, because they also cause anxiety in the population. In many cases, the results can even include the "lynching" of innocent people.

c. The high rate and frequency of theft and robbery (cell phones, handbags, glasses, etc), has become unbearable. The citizens ask for drastic punishment for those who commit these offenses. One of the solutions considered was to penalize misdemeanor offenses as felonies. However, instead of reducing minor delinquencies, this proposed measure would likely increase the frequency of these offenses. Therefore, it is necessary to think about creative solutions and alternative punishments that may dissuade individuals from committing offenses and bring them back into lawful society.

d. Peru is a multicultural country with a sizable indigenous population. The Political Constitution of Peru acknowledges the jurisdictional powers of indigenous authorities. Some members of indigenous towns and professionals, such as sociologists and anthropologists, cry out for the acknowledgment of an autonomous indigenous legal system. Yet, we cannot establish multiple independent legal systems within one state. This statement does not look for legal inclusion against its own values, but integration as its goal.

Peru is a society. The Peruvian Society operates under a unified regulatory regime that governs citizens' conduct and is based on the Political Constitution of Peru. Before thinking about parallel systems, what should be done is identify bridges that may guarantee an internal integration.

e. There is a supposition, with which we can agree or not, that the human being is by nature violent, and that this would be, among others, one of the causes for the existence of an adversarial or contentious

culture.² It is very difficult to change towards a conciliatory culture, but we must take that direction. The promotion of a conciliatory culture must be an institutional as well as public policy initiative.

f. There is a general appeal to the lawgivers and institutions to carry out effective actions so that the stability of the laws of our government are maintained and the spread of social chaos is held in check.

An alternative to this proposition is the utilization of the Justice of the Peace since it is an element of approximation between the State and the national community. Many people do not know or recognize the difference between the Indigenous Justice, Justice of the Peace, and the Popular Justice. The difference is as we show:

Indigenous Justice	Justice of the Peace	Popular Justice
Internal regulations in peasants and native communities (only in their territorial space), the direct source being customs or tradition. It must guarantee the protection of the person's fundamental rights.	Efficient and effective way to provide justice bringing closer the State Justice and the community.	"Eye for eye, tooth for tooth," social disorder, and chaos, lack of guarantee for protection of fundamental rights: due process and lynching.
It is thought that there exists an autonomous legal system, separate from the State legal system, and that the State must not intervene. <hr/> Peasants Patrol(*)= Support	National Justice System JUDICIARY BRANCH, Office of the Attorney General, National Police, Lawyers, and the Public Defenders Office.	Does not respect the state's legal order, recognize the police, or judiciary authorities.

Bearing this in mind, I was motivated to write a book on the subject, titled "Towards a Justice of Peace: a Matter of National Interest,"³ which asserted that every citizen has social and civic responsibilities.

The only purpose in mentioning my book is to state that this Article does not contain any different contributions with regard to background, experience, importance and development of the Justice of the Peace in rural areas and urban-rural areas of Peru. However, it does offer the details of some problems that have been arisen during the effort to strengthen the Justice of the Peace further, it offers a reflection on the current

2. DEFENSORIA DEL PUEBLO, Manual Pueblos Indígenas: Jurisdicción Indígenas: Jurisdicción Indígena y Debido Proceso, Lima, julio 2004, at 5.

3. Published by Editora Jurídica Grijley, Lima, Peru, June 2005.

implementation project for the Courts of the Justice of the Peace in urban zones and other pending matters.

II. PERUVIAN NATIONAL JUSTICE SYSTEM (PNJS)

The PNJS is a huge system containing sub-systems such as the Judiciary Branch and the Office of the Attorney General, plus the indirect actors previously mentioned.

With regard to the jurisdictional exclusive activity “impart justice,”⁴ as one of the state branches, the Principle of Jurisdictional Unity belongs to the Judiciary Branch. Nevertheless, our political constitution has made exceptions that has acknowledged other jurisdictions. These exceptions have been used when taking into consideration other contexts, such as the indigenous and the submission to a third party, to resolve conflicts by arbitration. Both the indigenous jurisdiction and the arbitration jurisdiction have certain limitations and conditions to be exercised. This is due because the Jurisdictional Unity belongs to the Judiciary Branch.

Although the Justice of the Peace is not really a jurisdiction, since it is part of the formal structure of the Judiciary Branch, as we will see later, due to its characteristic of singular or extraordinary instance it deserves independent treatment.

4. Currently, the specific function to resolve in a sentence, is called “to impart justice.” Nevertheless, we prefer to talk about “deciding the right.” The words to “impart justice” are proposed, but according to the dictionary, this means to distribute or communicate. The Judge neither distributes nor communicates justice. “To resolve” would not be an adequate word either since the Justice does not always resolve a conflict as it continues through the legal process, such as when one of the parties considers having lost the case and describes the sentence as “unjust.” The Judge interprets the objective rule, chooses, and decides for the corresponding substantive right. Thus, we consider that the judge decides on the right that corresponds to each party, and “forms a definite judgment on something that is doubtful, takes a determination”, through a due process with the proofs that have given him the conviction with regard to the alleged facts. The discretion of the Judge is fundamental to reach a decision.” *MARÍA ELENA GUERRA CERRÓN, VISION OF THE JUSTICE SYSTEM 78-80 (RODHAS eds., Lima, Peru 2004).*

III. PRINCIPLE OF JURISDICTIONAL UNITY: JUDICIARY BRANCH

Jurisdictional Body	Indigenous Jurisdiction	Arbitration Jurisdiction
Supreme Court of Justice; Superior Courts of Justice; Specialized and Mixed Courts; Courts of Peace, with attorney at law; and Courts of Peace. They resolve conflicts in accordance with the positive-state regulations, except the Judges of the Peace.	Authorities from the peasants and native communities (indigenous towns). Resolves the conflicts in accordance with their uses, customs, traditions, community rules. Necessary coordination with the Judges of the Peace.	Arbitrators to be chosen by the parties. Arbitration or Alternative Dispute Resolution. The arbitration can be by conscience or by Law. Nullity of the arbitration award can be requested to the Judiciary Branch.

IV. JURISDICTIONAL BODY

The Judiciary Branch is the state's jurisdictional body to resolve conflicts of interest. The judges decide the right that corresponds to each of the parties (impart justice) in accordance with positive law, substantial regulations, and procedural regulations. This is why it is called formal justice, positive justice, state justice, or occidental justice.

The Jurisdictional Branch is ruled by a *Consolidated Text of the Organic Law of the Judiciary Branch* which sets forth its structure and the jurisdictional levels that are part of it. When using Justice of Peace without "letrada" it is only the Justice of Peace (an instance of judiciary too, but where all the judges are not lawyers, most of them are common people). These judges did not study law at the university, that is the reason it is a special branch of justice. The other justice of peace is a Legal Justice of Peace. In Spanish, *Justicia de paz Letrada*; letrada means that the judges studied at the university and all of them are lawyers. From the Supreme Court of Justice to the Legal Justice of the Peace,⁵ all members are subjected to the procedural rules and formalities prescribed by law. Although the Justice of the Peace is a jurisdictional stage of the Judiciary

5. The Legal Justice of the Peace is always considered as the first stage in the Judiciary Branch, but this is not correct. In any case, it is the first formal stage, as in practice the Justice of the Peace is the first step of access to justice. The Justice of the Peace differs from the Legal Justice of the Peace in that in the latter, the judges must necessarily be lawyers. Whereas, such a requirement does not exist for the Justice of the Peace. Previously, the Justice of the Peace was known as non-lawyer Justice of the Peace. Nevertheless, this distinction was eradicated because, although, there is no obligation for the Justice of the Peace to be a lawyer, it does not exclude the possibility.

Branch, it is not obliged to state the legal foundations of its decisions and, therefore, it exceedingly differs from the rest of the levels. This is why it is often misunderstood by other magistrates and lawyers.

V. INDIGENOUS JURISDICTION

The direct foundation of the notions of the Peasant and Native Communities are the indigenous towns. After the military revolution of General Juan Velasco Alvarado, the word “indigenous” was considered pejorative and offensive. Thus, it was eliminated and the preferred terms became Peasant Community (generally, located in the Sierra) and Native Community (in the jungle).

The jurisdictional powers of the peasant and native authorities are not unrestricted. On the contrary, the following limits must be taken into account:

- a. The authorities have been duly elected;
- b. Their powers are exercised within their territory;
- c. Customs are respected;
- d. The fundamental rights of the person are not violated; and
- e. There is no contradiction between said authorities and the Justice of the Peace and other judicial stages.

The Peasant and Native Communities exercise their jurisdictional power with the support of the Peasants Patrol. The Peasants Patrol, which is not the same as the Self-defense Committees, lack jurisdictional powers. Therefore, it plays only a supporting role to the peasant and native authorities and the Justices of the Peace.

“The acknowledgement of an indigenous people does not suppose their separation from the State, but their inclusion as legal entities, having a number of collective rights.”⁵ Encouraging separatist positions or the search for autonomy to such an extreme as to create parallels that, far from ensuring integration, can weaken us as a nation and must be avoided. This is a statement that we must all internalize. The idea is not to cause a division in the Peruvian people but, on the contrary, to unite it and strengthen it; it guarantees respect to the communities’ culture inasmuch as such culture dignifies human values and is in accordance with the first article of the Political Constitution of Peru, to protect the human being and respect its dignity as the supreme aim of society and State.

It is important to identify: indigenous justice in its own nature, their degree of autonomy, their position within the structure of the National Justice System, and their jurisdiction.

Many events have recently taken place in our country, which have been qualified as a “return journey to barbarism” and the perpetrators or alleged liable actors have been called “terrorists,” “vandals,” or a “mob.” Many of these actions have wrongly been attributed to the peasant or native communities (indigenous people) or, in any case, it is not a matter of indigenous justice or law, but a deviation from it.

This situation is not a positive one for the members of the peasant and native communities. Because it is not permissible that some particular interests, using the name of indigenous justice, promote chaos and distort it in order to obtain the revalorization of their culture.

VI. ARBITRATION JURISDICTION

Arbitration is the third exceptional jurisdiction acknowledged by the constitution. It guarantees citizens the right to choose a neutral third party to arbitrate their conflict and issue a decision.

VII. JUSTICE OF THE PEACE: A SPECIAL JURISDICTIONAL LEVEL

Initially, it is necessary to specify that the Justice of the Peace in Peru differs from other South American countries, in that it is not an alternative mechanism for solving conflicts (MARC). The Justice of the Peace can neither be compared with conciliation (even though it is the best method to solve conflicts at this stage), nor with arbitration, as it is part of the Judiciary Branch. Therefore, the Justice of the Peace cannot be considered as part of either alternative law or community law.

In any case, the word alternative is useful to us in order to explain the importance of the Justice of the Peace. Since it becomes an alternative for the citizen to solve his conflict in a direct manner, in accordance with the uses and customs of the Judiciary Branch, and without the requirement of commencing a formal litigation.

Many times, in a formal litigation process the conflict is not really solved, despite the fact that in the decision there is always a “winner” (as if it were a competition). Nevertheless, the “winner” is not always the winner, not because the substantive laws protected him, but because his “procedural strategy” was a superior technical defense. The Justice of the Peace, being a jurisdictional stage, offers the possibility to really solve the

conflicts of interest or prevent and punish illicit conduct in accordance with the social context and with a high degree of efficiency.

The Justice of the Peace in Peru was created in 1812, and is similar to other South American countries, such as Bolivia, Colombia, Ecuador, Venezuela, Argentina, and Chile. As in Peru, the office of the Justice of the Peace in these other South American countries was a consequence of their common Spanish heritage. Traditionally, the Justice of the Peace was a municipal justice in charge of the mayors. Since Peru's independence, the office has assumed its own autochthonous characteristics, but in the other South American countries, it definitely disappeared.

Due to the lack of credibility and trust in the justice systems, throughout the past decades, there has been increasing concern in the South American countries regarding the best way to guarantee access to justice for all citizens. Thought has been given to those towns in locations far away from urban outskirts and in those sectors that are considered excluded. There has also been great concern for the procedural overload in the jurisdictional bodies. Due to such overload it has been convenient for these jurisdictional bodies to insert their own justice systems, just as the Justice of the Peace has done in Peru.

Every country, responding to their reality, has given the Justice of the Peace importance as they have deemed it convenient. In some countries, the Justice of the Peace is an alternative mechanism for the solution of conflicts not under the name of Justice of the Peace but as justice for small affairs, in charge of professional judges, or as a neighborhood justice.

As previously mentioned, Peru is the only country that has maintained the institution of the Justice of the Peace. Furthermore, the Municipal Justice, as per the Cadiz Constitution of 1812, with all its Spanish characteristics, has disappeared. The surviving Peruvian Justice of the Peace recovered its autochthonous roots, which originated in the Elderly Councils during the end of the Incas.

Until now, the general idea, although not definite or exclusive, is that the Justice of the Peace is the eldest and most recognizable person in the community or town. The experience and knowledge of the Justice is determined by their age.

In countries such as Colombia and Venezuela the figure of Justice of the Peace has been established but in the form of a Municipal Justice. The Justice of the Peace is only a conciliator; therefore, the Justice of the Peace oversees the alternative dispute resolution. In Colombia the Justice of the Peace, along with the conciliators for natural law, mediators and others, is considered within the Alternative Justice or Community Justice system.

The following chart shows the situation in general terms:

Peru	Colombia	Venezuela	Ecuador	Bolivia	Chile	Argentina
Art. 149°, 152° Political Constitution Indigenous Justice or Community Justice in coordination with Judges of the Peace	Art. 247° Political Constitution Art. 246° Indigenous Justice	Art. 258° Political Constitution Art. 260° Indigenous Justice	Art. 19° Political Constitution Has not been implemented Art. 191° Indigenous Justice	Law N° 3324 Reform to the Law for Judicial Organization, dated 18-01- 06. To be developed Art 171° Indigenous Justice	Project for Justice in small affairs	Project for Neighborhood Justice
Judicial Branch	Municipal Justice Judicial Branch	Municipal Justice		Judicial Branch		
Conciliation and jurisdictional function	Conciliation and Alternative Justice	Conciliation				
Rural and urban—rural areas Urban areas under project	Urban areas	Urban areas				

In Ecuador, although their Political Constitution has provided for the figure of the Justice of the Peace, there has been no political will to implement the figure until now. This may be so because the work done by the “Community Mediators” is satisfactory, according to citizens, and they have not demanded for the time being, another figure.

In the case of Bolivia, Law N° 3324, Reform to the Law for Judicial Organization, dated January 18, 2006, has instituted the Justice of the Peace. Although the figure was instituted in a very generic manner, its results will bring an alternative to promote access to justice in the country. This task will prove difficult because, even with a more inclusive citizenship perspective, representatives of the indigenous people have rejected moves towards implementing the Justice of the Peace in their

towns based on concerns that it will destroy their native culture and system of justice.

In Chile and Argentina, the intention for implementing the Justice of the Peace to reduce the burden on the formal jurisdictional machinery and to search for celerity in the resolution of some cases that may not necessarily require a judicial process. Thought has been given to employing professional judges rather than non-qualified judges in these countries.

IX. BACKGROUND

The Justice of the Peace was not a creation of the Judiciary Branch. It existed before the Jurisdictional Body was constituted. The basis for the Justice of the Peace is the Municipal Justice brought by the Spaniards in the 16th century. At that time, the Municipal Judges were elected by the people. The 1812 Cadiz Constitution is the legal origin of the Justice of the Peace. From approximately 1828, the Justice of the Peace has been part of the Judiciary Branch.

The Justice of the Peace is a level in the Judicial Branch, but with such special characteristics that it could be thought of as independent from the formal judicial structure. Additionally, it is governed by a couple of articles that have no relation whatsoever with the rest of articles in the Text of the Organic Law of the Judicial Power (TUO). It is for these reasons that I propose the preparation of a bill for the Justice of the Peace that will deal independently with its actions. This bill would not act like a “straight jacket” but like a basic guideline. The bill would be more for the benefit of the formal magistrates, lawyers, police and citizens than for the Justices themselves. The Justice of the Peace, being peculiar, has become an element of approximation between the State National Justice System and the community.

I say that it is a special, peculiar, and extraordinary jurisdiction because the Justice of the Peace have, above all, a conciliatory function. However, in a case in which they fail to achieve conciliation, they have extraordinary jurisdictional power and can pronounce judgment. What is outstanding is that the judgment is issued according to their best knowledge and belief, duly motivated, without the obligation to support it legally. The Justices of the Peace preserve the values that the Political Constitution of Peru prescribes: respect the culture and customs of the community.

Our experience with the Justice of the Peace occurs precisely in the rural and urban-rural areas. That is, places far from the Judicial Offices, Attorneys, and Police Departments found within urban zones. This is the

reason why, in some cases, the Justice of the Peace is considered the “Justice for the poor”; nevertheless it is not so. Since there are currently more than 5,500 Justices of the Peace at the national level compared to fewer than 2,000 formal judges, one can easily assume the importance of the role played by the Justices of the Peace in guaranteeing access to justice.

X. WHO IS THE JUSTICE OF THE PEACE IN PERU?

The Justice of the Peace is the most recognized and respected entity used for the direct resolution of conflicts. The Justice of the Peace performs a conciliatory, as well as jurisdictional function, protected by law, to which the members of a community submit themselves. Their service is a result of the universal principle that “the legitimacy of the administration of justice comes from the people.” Accordingly, the Justice of the Peace is elected by popular vote.

The Justices of the Peace are found not only in rural, urban-rural and some minor rural zones, but also in the peasant and native communities. The representative authorities of the peasant and native communities, with the support of the Peasants’ Patrol, have the authority to solve conflicts and apply, exclusively, their communities rules.

The Justice of the Peace resolves conflicts in the same manner as, for example, the Aymara Community. The resolution of the conflict occurs not when it is a private or individual matter, but when the problem effects the whole community. Punishments are imposed by the Justice in accordance with the uses, customs, and traditions of the respective community. Nevertheless, he must know and respect the person’s fundamental rights. Ensuring the fundamental rights of the person is not an attempt to decide an indigeneous culture or limit its jurisdiction. On the contrary, it guarantees the respect of those human rights such as life, dignity and others, which society is obliged to protect for all human beings.

The post of Justice of the Peace may coincide with being either the president in the community, the best acknowledged familial authority, or the person whom the members of the community consider the most appropriate. She or he is no outsider.

The Justice of the Peace in a peasant or native community, or in any community, is an approximation element between the community and the State. He or she is the link between the community and all of the jurisdictional bodies, including the Office of the Attorney General and its prosecutors, National Police, and other authorities.

They do not receive any remuneration for judicial services rendered to the community. They are obligated to set specific hours of availability for the public nevertheless this is only a formality, since they are highly respected and recognizable members of a community, in general, Justices of the Peace are available twenty-four hours a day.

Although many people contend that it is against a constitutional right to compensation, pro bono service has been a characteristic of the Justice of the Peace since 1812. Any constitutional concerns may be dismissed because those who accept the post do so by their own free will and with full knowledge of the special pro bono requirement of the Justice of the Peace. When the Justices of the Peace perform certain duties in a place other than the court, they have the right to receive reasonable fees without abusing their post.

XI. FUNCTIONS OF THE JUDGE OF THE PEACE

A. Conciliatory Function or "Settlement"

The Justice of the Peace is essentially a conciliator. Nevertheless, this conciliation role must not be confused with an MARC. The familiar MARC system corresponds to certain parameters and practitioners must take courses in order to obtain a diploma as an extrajudicial conciliator. The Justices of the Peace do not study any subject about conciliation, nor do they know the techniques that are used by expert conciliators. They resolve conflicts by common sense—by criteria conforming to principles of conscience and fairness. They do not look for winners or losers, but aim to maintain, as much as possible, a harmonious link between the parties.

As the lawyer and anthropologist Wilfredo Ardito Vega says, "it is an atypical conciliation and this is how it should be understood." Why is it an atypical conciliation? Because there are places where the positive rules are completely unknown. Therefore, the Justice does not pay attention to whether the rights are available or not. He simply tries to resolve the conflict and maintain social peace. This is one of the major criticisms of some Professionals in Right (lawyers, judges, and others who have studied law in the University), because the Justices of Peace are not necessarily lawyers. Even the TUO ignores the differing realities of distant rural areas of the country. It expressly forbids the conciliation to the Justices of the Peace in certain matters such as: matters relating to marital relationship; nullity and voidability of legal acts or contracts; determination of the heirs, inheritance, wills, or estate taxes; constitutional rights; labor matters; and other specified by law. The experience of those who had the opportunity

to live in communities or remote villages have told us that within their community, the Justice of the Peace reached “settlements” in almost every type of conflict, including those prohibited by law. These types of cases included, domestic violence, misdemeanors, occasionally felonies, legal separations, tenancy, visitation rights, and others. I cannot understand why this situation is questioned by critics if there is no formal judicial presence in these isolated communities. In my opinion, the amount of conciliation with the Justice of the Peace should not be limited because it is a free submission from the parties without prohibition on the subject matter.

If both parties submit themselves willingly to the decision of the Justice of the Peace, there should be no future problem. The problem that could arise is if the person who submitted fails to comply with the settlement and goes to the formal justice system. In that case, the Justice of the Peace may be liable for having performed judicial acts “against law.” In that situation, the Justice of the Peace may face an administrative penalty or even a criminal accusation.

B. Jurisdictional Function

The Justice of the Peace is a conciliator, but if he does not reach a settlement or agreement with the parties, he is authorized to exercise jurisdictional authority, that is, he is authorized to issue a decision. In accordance with the law, in this case, there are minimum formalities and requirements. For example, he must guarantee the parties’ due process by means of notice and hearing. The notice requirement alerts the person summoned of the pending action and the hearing requirement gives the person the opportunity to respond to the accusations before a judge. Furthermore, it is very important that the final decision is supported by rationale so that the judge can give the reasons for his decision. Such aspects as territorial competence, amount, and subject matter are complex issues for the Justices of the Peace. Facing those requirements, however minimal, the Justices of the Peace prefer to refrain from dictating any decision, so as to promote more conciliation.

1. Civil

In civil matters, Justices of the Peace are forbidden to decide matters relating to the nullity and voidability of legal acts and contracts. They cannot issue a decision on constitutional matters nor on successions. With regard to payment of debts and indemnities, their competence is limited up to one tax unit, which is presently 3,400 new soles (almost US\$1,000). As we will see in criminal matters, many times the Justices of the Peace assume

civil competence in matters forbidden by law, which may result in the harsh punishment of destitution by decision of the Judiciary Branch.

2. Criminal

In accordance with the law, the Justices of the Peace determine the issue of fault which requires an action be completed, or effectively committed, and not merely the intent to commit the action. Due process must be guaranteed to those accused of the offense. The person must be notified or informed of the misdemeanor he or she supposedly has committed and has the right to defend himself or herself in court.

Innocence must be presumed until the end of the process and punishment is applicable only when the evidence proves undoubtedly the guilt of the accused. This process is somewhat complicated in some peasant and native communities, where although there is a Justice of the Peace, the resolution is done according to Original Justice or Indigenous Justice. Here, the Legality Principle is considered more as a Community Principle, bearing in mind the community rules. There will be some conducts that will be punished as a preventive measure. Nevertheless, according to the Criminal Code, they should not be punished. This happens not only in peasant and native communities, but also in rural and even urban-rural villages.

Articles 440° to 452° of the Criminal Code stipulate the faults of offenders and when they are liable for punishment. The Justices of the Peace may give an order of detention for up to twenty-four hours.

The only civil penalties the Justice may impose are fines and community service. Any situation that has not been foreseen in these articles enters the criminal field and the Justice of the Peace is therefore not competent to determine the penalty. Rather, the Office of the Attorney General and the formal judges must determine the penalty. For example, to cause the death, physical injury, or serious physical damage of a person, the offender cannot be penalized by a Justice of the Peace.

a. Offenses

(1) The Justice of the Peace can try these patrimonial offenses today when the equity value of the belongings is no more than one minimum remuneration which is equivalent to 550 nuevos soles.⁶

6. The Justices of Peace only participate in offenses but not in crimes. They can punish any behavior that acts against the community in order to maintain the peace. However, those offenses listed specifically in the Penal Codex articles 440° al 452° are:

Take possession of food or drinks of small value to eat or drink them, or be served in a restaurant and not pay the bill, which is also an offense.

(2) When there is physical damage, it is called injury.

The limit to decide whether it is an offense or a crime depends on the conclusion of the medical exam. Up to 10 days physical rest is considered an offense. When there is an injury, not caused voluntarily but due to carelessness and there is incapacity up to 15 days, according to the medical exam, it is also an offense. A problem arises in places where there are no

1) Offenses against the property or patrimonio, heritage.

- 1.1 Robbery in house, in the streets (when the economical damage is not more as 550 nuevos soles.
- 1.2 Take possession of food or drinks of small value to eat or drink them, or be served in a restaurant and not pay the bill.
- 1.3 To usurp or occupy for short periods of time someone else's property.

2) Offenses against the person.

- 2.1 Physical damage.
- 2.2 Insult (injury).

It is also an offense to hit, whip, or slap the face without causing any injury and to throw objects at a person without causing any injury.

3) Offenses against good behavior or against moral customs.

- 3.1 Immoral or dishonest proposition.
- 3.2 To sell or give alcoholic beverages and tobacco to minors.
- 3.3 To give, consume, or sell alcoholic beverages in public places during prohibited hours.
- 3.4 To destroy gardens, plants, and parks and abuse of animals.

4) Offenses against public security.

- 4.1 Not to comply with the obligation to take care and watch persons who are mentally ill or ill.
- 4.2 Leave rubble in public traffic places.
- 4.3 Make useless the water faucets.
- 4.4 Drive vehicles or ride animals at high speed or being intoxicated putting in danger the public security; allow minors to drive vehicles.
- 4.5 Throw rubbish on the street or burn it causing problems with the smoke.

5) Offenses against the public tranquility or public order.

- 5.1 Disturbs in the neighborhoods or the community by the performance of spectacles or public meetings;
 - 5.2 Rudeness to the authorities without having been offended seriously.
 - 5.3 Refuse to provide assistance to the authority when required to help a person in danger.
 - 5.4 Disturb the neighbors with discussions or disturbing noises.
- the public security; allow minors to drive vehicles

medical services. In this case, the Justice of the Peace will have to assess the situation and the victim's condition.

It is also an offense to hit, whip, or slap the face without causing any injury and to throw objects at a person without causing any injury. The suppositions in these cases are not clear and it is up to the Justice of the Peace to assess and value them.

- (3) To occupy for a short period of time someone else's property is an offense called appropriation.
- (4) Offenses against moral customs: immoral or dishonest proposition; to sell or give alcoholic beverages and tobacco to minors; to give, consume or sell alcoholic beverages in public places during prohibited hours; to destroy gardens, plants and parks and abuse of animals.
- (5) Offenses against public security are for example: not to comply with the obligation to take care and watch persons who are mentally ill or ill; leave rubble in public traffic places; make useless the water faucets; drive vehicles or ride animals at high speed or being intoxicated putting in danger the public security; allow minors to drive vehicles; throw rubbish on the street or burn it causing problems with the smoke.
- (6) Offenses against public order when the neighborhood or the community are disturbed by the performance of spectacles or public meetings; rudeness to the authorities without having been offended seriously; refuse to provide assistance to the authority when required to help a person in danger; disturb the neighbors with discussions or disturbing noises.

With regard to the imposition of penalties we find no problem in the imposition of community service, but we are concerned with imposing a fine. The community service must be carried out during weekends so that it does not interfere with the offenders work-week. With regard to a fine, it should be deposited into the Banco de la Nacion. However, there are places where the bank has no offices, and therefore, payment becomes unfeasible. On the other hand, it is a contradictory situation since the Justice of the Peace's budget is not entered on the judicial branch's budget. However, when the Justice of the Peace imposes a fine, the fine is collected and kept by the judicial branch. Thus, there is no benefit for the Justice of the Peace, but only one for the formal judiciary.

Finally, the Justice of the Peace must set civil compensation in favor of the victim, which involves the return of the good, payment of its value, or an indemnity for damage or loss.

The culture of peace supports the special jurisdictional level for the Justice of the Peace. All the Justice of the Peace's actions shall always be directed to prevent conflicts, as well as avoid and eradicate violence in the social communities. This is why criminal matters are some of the most complicated for the Justices of the Peace. A Justice of the Peace is first and foremost a conciliator, and for this reason he will sometimes allow behavior labeled as illegal in order to reach a settlement or agreement between the parties with the purpose of maintaining peace and harmony in the community.

Nevertheless, in Formal Justice, it is forbidden to conciliate offenses or crimes. A Justice of the Peace will be penalized when he conciliates in cases involving offenses or crime, knowing that it is forbidden, or unknowingly but it is reported to the Office of the Attorney General or the Judiciary Branch.

In this context it is necessary to bear in mind the different scenarios in which the Justices of the Peace carry out their functions so as to avoid arbitrariness when judging accusations presented against them, whether for abuse of authority, illegal assumption of functions, or even for prevarication. Not all the Justices of the Peace have the opportunity to receive training. Therefore, in many communities they resolve issues without making a distinction between matters, and only in situations that are extremely serious do they inform the civil attorneys or judicial authorities. The different scenarios need also be considered for the design of a training methodology, because the idea is not to "formalize" the function of the Justices of the Peace, but rather give them the necessary tools to resolve conflicts.

Finally, it must be put forward without delay the fact that, recently, a series of proposals for changes in the criminal law have been announced with the purpose of restraining delinquency. The changes announced include the conversion of offenses into crimes in order to fight impunity and be able to penalize drastically illicit actions. Thus, Justices of the Peace will require that their competence be extended to enable them to hear and try crimes which will also require the creation of civil prosecutors. The task of the lower court judges and province civil prosecutors will then be overloaded causing an effect contrary to what is desired.

The authorities in the national justice system have already announced that the said measures are not the solution to the problem. Even more alarming is the appeal made by the ex-President of INPE (National

Penitentiary), Wilfredo Pedraza, that the jails do not have the capacity to receive more inmates; therefore, it will be necessary to build more penitentiaries. Obviously, more resources will be necessary, and we do not know if they are available.

Reflecting on the above, I wonder if these lawmakers' intentions have considered that access to justice and preventing major conflicts between the citizens is possible by means of special institutions, such as the Justice of the Peace. I also wonder if these proposals for criminal reform have been coordinated with the main members of the Justice System: the Judicial Branch and Office of the Attorney General, and if the competency of the Justices of the Peace (certainly in urban areas) with regard to offenses, has been considered.

b. Family and Work

With regard to family lawmakers, the Justice of the Peace only hears and tries cases if there is a familial relationship between the parties. The Justice of the Peace has competence in work matters.

c. Appeal

A big problem the Justices of the Peace face when they resolve a conflict is that it can be appealed before a Legal Justice of the Peace, and, generally, the latter declares the nullity of the Justice of Peace's decisions on the basis that they "are not according to law." What some magistrates still ignore is that the Justices of the Peace are not obliged to legally support their decisions (although nothing forbids them from doing so). This situation causes insecurity in the Justices of the Peace and favors ignorance of their authority towards the parties that have submitted to their jurisdiction. Therefore, it is of utmost importance that the Legal Justices of the Peace be aware of the peculiar nature of the Justices of the Peace in order not to become formalists when reviewing their decisions.

d. Other Functions

The Justices of the Peace also act as notaries when, in the locality, there are no notaries, as well as civil attorneys when the Office of the Attorney General entrusts them. Furthermore, by being leaders in their community, they also teach all of the members of the community or neighborhood the values, principles, and respect for fundamental rights. They also perform a social role because they favor, by means of activities and integration with their neighbors, improvements for the community and communal property.

e. Popular Election of the Justices of the Peace

The political constitution of Peru in article 152, states that the Justices of the Peace are elected by popular vote. Unfortunately, until now, a simple regulation on how to proceed for a democratic election does not exist, even though Law 28545 dated 16-06-05 8,⁷ has already

7. 8 Law 28545. General Dispositions—article 1: The Justices of the Peace have access to the post by *direct and democratic election*. This is the fundamental principle of this Law. Therefore, the rules and regulations that will control the access to the post may in no way limit the direct and democratic election. Nor may impose any further requirements. For example, to create evaluation mechanisms for candidate proposals collides with the right of the Judicial Branch to revise (and a posteriori). Further, establish tables with grades to assess the candidates is also in conflict with the Law. The Judiciary Branch does not evaluate proposals, but receives the information pertaining to the candidates already elected. In this sense, no regulation may establish rules regarding procedures or proposal evaluations, because what is reviewed is the information about those already elected. The opposite would be an attempt against the spirit of the law. The disposition by which the Full Court of each Justice Superior Court will determine in accordance with the law, *the applicable election modality* in the Justice of the Peace in their jurisdiction, does not mean that it has the right to dispose or impose another form of election. Since this would distort the popular and democratic characteristic of the law. The support to this statement is found in the Political Constitution of Peru, article 2°, item 19, which acknowledges multiculturalism in Peru. In this sense it is clear and convenient that it has been assigned to each Full Court, in accordance with its jurisdiction, which must be interpreted as their reality or social and geographic environment, the right to identify and determine the applicable modality for the election. In the case of the peasant and native communities, it is evident that the applicable modality for the election will be the one that they have been informed of by their duly appointed authorities. There are no further formalities, but merely to recognize the Justice of the Peace that has been elected by the members of the communities. In the rural-urban zones of Lima, such as Santa Eulalia, Ricardo Palma, Pachacamac, Huarochiri, Punta Negra, Punta Hermosa, Pucusana and Cieneguilla, the modality of election currently used is raising the hand. Something similar to what happens in the peasant and native communities, and, therefore, there is no reason why a different modality should be imposed. In contrast, the innovation in the urban Justice of the Peace, which are still in the process of implementation, a modality for the election cannot be imposed until the figure of the Justice of the Peace has been explained to the Neighbors Assembly or the population. Together with the municipal authorities, the best mechanism for the election shall be established. Considering the geographic variety, it cannot be expected that a general rule be given for the whole of Peru. Therefore, the Full Court's right is very important, because it can consider each of these scenarios in order to dictate the rules that will be applicable to its jurisdiction. This does not exclude rules or general guidelines to be considered as well. When it is established that the Justices of the Peace are governed by the Organic Law of the Judicial Branch whenever applicable, a big distinction is made between formal justice and the Justice of the Peace. Due to its unique nature, the Justice of the Peace will require rules that correspond to its unique characteristic and multiculturalism, but that does not mean that it is separated from the Judicial Branch. General Procedure—article 2°: a. If the mandate of the Judge of the Peace is set to expire, the Presidency of the Superior Court of Justice will send an official letter to the district major, the president of the community, or the municipal agent of the minor population center to call the neighbors to proceed with a direct and democratic

election. This means that a record must be taken of this action. In this case, the rules and regulation can establish that control will be given to the Commission for Matters related to the Justice of the Peace in each Superior Court of Justice. With an anticipation of two months, the President of the Superior Court of Justice will ask that the neighbors of a vicinity be called to a direct and democratic election (it is understood that it is for urban Justices of the Peace). In the case of the peasant and native communities, the election is in accordance to their traditions and customs. The premise is that the election is direct and democratic: the neighbors and the members of the peasant and native communities determine or decide on the modality for the election, and the Superior Court of Justice (by means of the mechanism they consider more convenient: Commission of Justice of Peace, for example) will revise (it does not appoint nor impose, only revises) that the persons elected comply with the general requirements by law. Exceptional intervention of the elections' organisms— article 3^o: Only under exceptional cases, due to a greater population and other reasons that may justify it, (this is very important: the exceptional character) the Full Court of each Superior Court will appoint the Justice of Peace where the election must be carried out with the intervention of the elections entities. The exceptionality qualification is in charge of the Full Court of the Superior Court of Justice. It must be interpreted that there is no legal limitation whatsoever for the Full Court of the Superior Court of Justice to delegate this right to a Commission on Matters of Justice of Peace to be presided over by the Chairman of the respective Court. However, the calling of the meeting must be done by the Chairman of the Superior Court of Justice. Mandate term—article 4^o: 2 years, with possibility of re-election. Requirements to be a candidate for Justice of the Peace—article 5^o: It is legally imperative to consider the following requirements: a. Be born Peruvian and over 25 years of age; b. Proof of residing more than three (3) continuous years in the district to which he or she is running for election; c. Be literate; d. Not be included in any incompatibility established by law; e. Have a known occupation; f. Knowledge, apart from Spanish, of the predominant language in the area where he or she will carry out the post (whether quechua, aimara or other); and g. Irreproachable behavior and recognition from the community. It is repeated that these are the requirements established by law. Therefore, more requirements cannot and are not convenient to impose, unless they are complementary. If the election is direct and democratic, the voters are the best to guarantee compliance with the requirements. Therefore, the power of the Superior Court of Justice is not to control, but to review and only after the fact. This is something that must be kept under consideration. Accessit Judges of Peace—article 6: The candidates that have obtained the second and third place in the voting, and in that sequence, shall be the ones who will replace the Justice of the Peace (in case of vacancy, absence, license or vacation). Resolution of Controversies—article 7: All controversies arising during the direct and democratic election shall be resolved by the Full Courtroom of the Superior Court. If the elections are carried out by the elections entities, this is the legally qualified entity. Nevertheless, it must be remembered at all times that this applies only in exceptional and justified cases. Final and Temporary Provisions: Bearing in mind always the spirit of the law for direct and democratic election, the Judicial Branch is entitled to: a. Dictate rules and regulations. There is not only one set of rules and regulations and, therefore it is possible that several rules may be issued. b. In the case of urban Justices of the Peace, it would not be convenient at present to establish a mechanism until it has been coordinated with the municipal authorities. This is corroborated by the rules because the rules establish that “[f]or the regulation of the elections for exceptional cases—intervention of the election organisms, the Judicial Power must coordinate with the electoral organisms, but this only in the cases of exception, therefore we believe that a special rule should be issued for those cases.” Therefore, what has been said is valid as it has foreseen the complementary intervention of the Judicial Power when, in exceptional cases, the intervention of the elections organisms is not available. Only in these cases will the Judicial Power appoint the

been published.

The law established that in the rural and native communities the elections of Justices of the Peace would be carried out according to their customs. This means that the rural and native communities may choose the person they consider most appropriate to perform the role of Justice for the Peace for their respective communities.

It would then be enough that these communities send to the judicial power, for verification and acknowledgment, the minutes of the election. Nevertheless, the Judiciary issued a guideline which denotes the popular characteristic of the election and imposes unnecessary additional requirements and forms. It also entitles the chairmen of the superior courts of justice to appoint Justices of the Peace, which can lead to arbitrariness.

I am of the opinion that in rural areas, the election can be carried on as it has been until now, by direct voting, unless the Judiciary considers necessary the intervention of an election official to protect the democratic process. In the urban zones where there is the intention to create a Justice of the Peace, the modality of elections are even more uncertain, because this is the first experience at every level.

A provision in this law that must be highlighted states that “the Magistrates, government employees and other members of the Judiciary Branch, Justice Department, Peru’s National Police, local and regional authorities shall render the support the [Justices of] the Peace may require for the adequate fulfillment of their jurisdictional functions.” This is a very good decision because there is still a sector in the Judiciary, both the Judiciary Power as well as the State Attorney’s Office, that does not acknowledge in practice the jurisdictional powers of the Justices of the Peace.

f. Change in the National Justice System—The Special Commission for the Complete Reform of Justice Administration (CERIAJUS) and the Justice for the Peace

The CERIAJUS was created by Law N° 28083. It was formally installed on October 24, 2003 and finished its task on April 23, 2004 with the President of the Judiciary Power’s delivery of the National Plan to the President of the Republic.

Justices of the Peace, taking into consideration the opinion of local authorities and the population. The term “appointment” must not be considered as excluding direct and democratic election. Therefore, it is very important that there is previous coordination between the local authorities and the neighbors boards. c. The Superior Court of Justice of Lima must have the necessary authority to approve, including in a different manner, the modality of election in accordance for each district, bearing in mind its particularities.

The reform was created from a systemic viewpoint by sixteen representatives of various governmental departments: the presiding Chairman of the Judiciary Power; the State Attorney; the Chairman of the National Council of Magistrates; a representative of the Constitutional Court; The Chairman of the Board of the Magistrates Academy; the Minister of Justice; the People's Defender; two representatives of the Congress Commission for Justice and Human Rights; five members elected by the institutions regulated by the Civil Society participants in the National Agreement Forum; one representative of the Lawyers Board of Peru elected by the deans of said boards; and two representatives of the Law Faculties.

The National Plan for the Justice Integral Reform belongs to a National Political Agreement between different statements (Judiciary, Ministerio Publico, Justice Ministerium, Constitutional Tribunal, civil society, and political parties). The Twenty Eighth State Policy is about the "Access to Judicial Justice and Independence" it states a compromise to "guarantee universal access to justice, the promotion of the Justice of the Peace and the autonomy, independence, and budget of the Judiciary Power, as well as to rule the complementariness between this and the community justice. This is very important, because with a national agreement, for the first time, we can get a new Judiciary. It also undertakes to adopt policies that guarantee the enjoyment and validity of fundamental rights established in the Constitution and in international treaties on the subject."

The agreement regarding the Justice of the Peace and the public ministry should be highlighted. An Integral Plan has been considered to contribute to its strengthening. Two actions are expressly approved:

1. To favor a direct coordination between the Justice of the Peace and the Public Ministry to ensure that they reach the rural population.
2. Take into consideration the Justices of the Peace in workshops promoted by the State Attorneys to establish ways of collaboration in the protection of fundamental rights.

The framework of Integral Reform exposed a serious problem for the Justice of the Peace. Although this has been considered of national interest,⁸ what is surprising is that in the Judicial Power Budget there is no

8. The text of the Integral Reform Plan for the Administration of Justice can be found at www.pj.gob.pe. See generally Poder Judicial, Republica del Perú, [http://www.pj.gob. pe/](http://www.pj.gob.pe/). It must be commented that the Integral Plan was handed to the President of the Republic, as it is within the framework of governmental policies in the "National Agreement." The National Agreement is a

entry for this special instance. There is only the expectation to obtain international cooperation. This is an omission that must be superseded.

g. Justices of the Peace in Police Stations

Different measures are being taken at present to fight against violence and delinquency, which causes unnecessary anxiety to the citizens and compromises social peace. On one hand, we have Law 27933 (Law for the Citizen's National Security System), which allows for comprehensive actions carried on by the state with the cooperation of citizens for the purpose of ensuring peaceful coexistence, eradication of violence, pacific use of public roads and spaces, and the prevention of crimes and infractions. Within this context and when the budget allows, Legal Justices of Peace are present in police stations. Very limited economic resources do not allow for the implementation of Justices of Peace in all police stations. I personally do not support this proposal. The function of the Justice of the Peace is different to that of the Legal Justice of Peace. Therefore, it cannot be expected that the Justice of the Peace replace him in order to save resources. It would be acceptable for a Justice of the Peace to use extra space in a police station only for administrative reasons.

Since 2005, we have as a unique and remarkable example we have the Court of the Justice of the Peace in Izcuchaca in Huancavelica (highland in Peru). The Chairman of the Superior Court of Justice of Huancavelica signed an agreement with the Peruvian National Police so that the Izcuchaca Justice of Peace may carry out his duties in a physical place located within the police station in Izcuchaca.

h. Towards Urban Justice of Peace

Until Law N° 28434 (28-12-04) was issued, article 60 of the Organic Law of the Judicial Power prohibited the coexistence of a Legal Justice of the Peace and a Justice of the Peace.⁹ In view of the fact that the Legal

result of a political agreement between political parties, trade unions, professional unions, and corporate representatives. The National Agreement can be reviewed at the following webpage: <http://www.acuerdonacional.gob.pe>.

9. In locations where there coexists a Legal Justice of the Peace with another Justice of the Peace and the law assigns them the same jurisdiction, the plaintiff may resort to any of the two jurisdictional levels. In all other cases, they will be subject to what the law stipulates in each case. Article 61: Establishment and number of Courts of the Justice of the Peace. The Executive Council of the Judicial Branch annually defines the policy for the development of the Justice of the Peace. It corresponds to the respective District Executive Council, to propose the creation or elimination of the Justice of the Peace offices, taking into consideration demographic conditions, capacity of

Justice of the Peace has not been sufficient to satisfy the demand for justice for the citizens, and taking into consideration the experience of rural Justice of the Peace, it has been deemed convenient to implement the Justices of the Peace in strictly urban zones.

This implementation is an option for the citizens seeking quick access to justice in those matters that do not necessarily require formal justice.¹⁰

For example, the Justice of the Peace may act as a conciliator and the signed conciliation minutes have full legal support and validity. In civil matters the Justice may resolve, among others, matters about debts, indemnities, and allowance for food and other necessities. The Justice of the Peace may hear case for minor defaults that do not require a formal process and can impose creative and effective punishments. He will also ensure that the punishments of community service imposed are fulfilled. For that purpose, it is vital to have the collaboration of neighbors, municipal authorities, and church and police authorities who are the most interested in preventing major conflicts and recidivism. The Justice of the Peace may have rights to order the detention of persons that commit faults and there is no reason why a law could not be enacted for the detention of offenders for more than 24 hours.

It could be two or three days detention, depending on the magnitude of the offense, and produce the desired deterrence effect on crime. We do not pretend to say that this is the solution to the urban crime problem but, I think, it is a great option citizens should know exists. In the capital city, where there is a higher population, the pioneers in the area of implementation of the Urban Justices of the Peace are the Superior Court of Justices in Lima and Callao.

the population for access to justice, condition of parties to an action, necessity of the service, and the communication facilities among the different jurisdictional levels of the Judiciary.

10. Wilfredo Ardito Vega, Peruvian specialist in the Justice of the Peace says with regard to urban Justices of the Peace,

A secretary purchases in a shop a computer that never worked, technical service does not repair it, and the company does not reimburse her money. In a building, a lady prefers to make expenses for pure luxuries and not pay maintenance, assuming that, should the notice to cut the water arrive, the other neighbors will pay the debt. When facing these situations, people feel that to start a trial would not bring an effective solution, due to the litigation fees, payments, and other formal criteria for the making of decisions. Law No. 28434 could help to generate more harmonic relations and punish many abuses by allowing citizens to choose the Justice of the Peace.

Justice of the Peace Near Your Home, EL PERUANO, June 10, 2006, at 15.

In the case of Lima, as in many other Superior Courts at the national level, commissions on matters relating to the Justice of the Peace have been established. The Commission for the Judicial District of Lima already has a strategic plan for the creation of urban Justices of the Peace. To start with, it is intended as a pilot plan and the necessary coordination is being made with municipalities, which are the governmental entities responsible for the functioning of the Justice of the Peace. The plan consists of four Justice of the Peace offices in the district of San Juan de Miraflores. The purpose is not only to bring justice closer to the population, but also to encourage, in an environment of so much conflict, a culture for the peaceful resolution of conflicts—a conciliatory culture. The citizens will democratically choose their Justice of Peace. Nevertheless, this being a first experience, it is still uncertain which would be the most adequate way to proceed with the election. The purpose is not to politicize the election, but instead let it be pure and democratic in order to achieve total legitimacy. It has been thought that the candidates for the Justice of Peace should preferably not be lawyers. The decision is in the hands of the people.

The most complex task has only recently started because, although there is an agreement in place between the Commission for Matters in Peace Justice and some local governments, a geographical demarcation has not yet been established to set the limits of the population and create the sectors that would establish a Justice of the Peace office. In the case of the Superior Court for Justice of Lima, the execution of a strategic plan has started with the agreement of local authorities. On the contrary, the Superior Court for Justice of Callao (Constitutional Province in the Department of Lima, but with its own Superior Court) has started to carry out the implementation in a manner that, in my opinion, is more relevant.

The Superior Court of Justice of Callao has met with the representatives of the population in Callao to explain and illustrate the benefits of having a Justice of the Peace in the community. After this meeting, the Superior Court of Justice asked the representatives if they were interested in establishing a Justice of the Peace office in Callao. The result was so overwhelming because the representatives assumed that if a Justice of the Peace was established that it would compromise the administration of justice. There were workshops with the representatives of the neighborhoods.

At these meetings information was given to the representatives regarding the limitations of the Justice of the Peace. Further, representatives learned the benefits of having a Justice of the Peace. Therefore, it is imperative to carry on with a teaching task, both for the citizens as well as the future Justices of the Peace which illustrate to the

citizens that the Justice of the Peace will not limit the administration of justice, but rather will be a great asset to their region.

The measures that are taken must not be seen as only to clear the workload of the judicial offices, or lower the condition of the parties to an action in order to obtain certain procedural benefits, which will in any case be an effect. What must be the goal is to create citizens' culture for peace and justice that identifies with common people and is understood at the different social levels.

It is a great opportunity for the country to take advantage of and strengthen such a unique institution as the Justice of the Peace, since it is an effective tool for guaranteeing access to justice for the community.

XII. FINAL REFLECTION

Richard A. Posner said "A second meaning of Justice, the most common I would say, is simply efficiency." The Justice of the Peace is efficient in two main judicial functions: conciliatory and jurisdictional. The 193 years of experience of this institution in Peru has proven that the Justice of the Peace can provide for the pacific resolution of conflicts in a direct manner. The increase in the number of Justices of the Peace at both the national and local levels lead us to conclude that we have an efficient vehicle for justice. It is efficient because, even without funds from the state, it achieves its purpose of guaranteeing access to justice. Today, this rich experience must be taken advantage of in urban zones and adapted to the needs of each social scenario. The Justice of the Peace, while not eliminating our litigation culture, does serve to reduce its effect.

There is a pending task with regard to the strengthening of the Justice of the Peace which must be carried out jointly by the members of the National Justice System and the citizens of Peru. It is time to start the task.

